

REMARKS

In the October 05, 2006 Office Action, claims 1-19 stand rejected in view of prior art. No other objections or rejections were made in the Office Action.

*Status of Claims and Amendments*

In response to the October 05, 2006 Office Action, Applicant has amended claims 1, 7, 10, 14 and 15 as indicated above, and cancelling claim 4. Applicant wishes to thank the Examiner for the thorough examination of this application. Thus, claims 1-3 and 5-19 are pending, with claims 1, 7, 10, 14 and 15 being independent claims. Reexamination and reconsideration of the pending claims are respectfully requested in view of above amendments and the following comments.

*Rejections - 35 U.S.C. § 102*

In numbered paragraphs 1 and 2 of the Office Action, claims 1-19 stand rejected under 35 U.S.C. §102(b) as being anticipated by U.S. Patent No. 2002/0139637 (Tsumiyama et al.). In response, Applicant has amended independent claim 1 to clearly define the present invention over the prior art of record, and amended claims 7, 10, 14 and 15 into independent claims.

In particular, independent claim 1 has been amended to clearly recite a bicycle control device having an operating member includes an attachment portion, a first portion and a second lever portion that move together with the second lever portion projecting outwardly the first lever portion to with the longitudinal axes of the lever portions intersecting at an angle greater than zero. This structure is *not* disclosed or suggested by the Tsumiyama et al patent or any other prior art of record.

In the Office Action, the first and second lever portions of the claims were broadly interpreted as reading on the *opposite surfaces* of the lever 150 of the Tsumiyama et al

patent. Thus, claim 1 was amended to avoid such an interpretation. Claim 1 now recites a specific relationship of the first and second lever portions, which no longer reads on the *opposite surfaces* of the lever 150 of the Tsumiyama et al patent. It is well settled under U.S. patent law that for a reference to anticipate a claim, the reference must disclose each and every element of the claim within the reference. Therefore, Applicant respectfully submits that claim 1, as now amended, is not anticipated by the prior art of record. Withdrawal of this rejection is respectfully requested.

Regarding independent claim 7, Applicant has been amended this claim into an independent claim, because Applicant believes that the Tsumiyama et al patent fails to anticipate this claim. In particular, original dependent claim 7 recited that

said first and second lever portions are constructed as *separate members from each other* that are non-movably fixed to each other (Emphasis Added).

In the Office Action, the first and second lever portions were indicated as reading on the *opposite surfaces* of the lever 150 of the Tsumiyama et al patent. However, the *opposite surfaces* of the lever 150 of the Tsumiyama et al patent are *not* constructed as *separate members from each other* as claimed. Thus, claim 7 is not anticipated by the Tsumiyama et al patent *as original filed*.

Regarding independent claim 10, Applicant has been amended this claim into an independent claim, because Applicant believes that the Tsumiyama et al patent fails to anticipate this claim as originally filed. In particular, original dependent claim 10 recited that

a third lever portion extending at an angle to said second lever portion and a fourth lever portion connecting said third lever portion to said first lever portion to form a *substantially annular shape* together with said first and second lever portions (Emphasis Added).

In the Office Action, the locations of the third and fourth lever portions in the lever 150 of the Tsumiyama et al patent were not explained. However, the lever 150 of the Tsumiyama et al patent is *not substantially annular shape* as claimed. Thus, claim 10 is not anticipated by the Tsumiyama et al patent *as original filed*. Please note that in claim 10, as now amended, Applicant has deleted the following functional language: "when said first lever portion is operated to perform the first shifting operation and when said second lever portion is operated to perform the second shifting operation".

Regarding independent claim 14, Applicant has been amended this claim into an independent claim, because Applicant believes that the Tsumiyama et al patent fails to anticipate this claim as originally filed. In particular, original dependent claim 14 recited that

*said second lever portion extends substantially forward and upward from said first lever portion* when said bicycle control device is coupled to the bicycle and the bicycle is in a normal riding position (Emphasis Added).

In the Office Action, the first and second lever portions were indicated as reading on the *opposite surfaces* of the lever 150 of the Tsumiyama et al patent, which are generally parallel surfaces. Applicant respectfully submits that the second lever portion does *not extends substantially forward and upward from the first lever portion* as claimed. However, to make claim 14 more clear, the word "extending" has been changed to "protruding" in amended claim. Thus, claim 14 is not anticipated by the Tsumiyama et al patent *as now amended*.

Regarding independent claim 15, Applicant has been amended this claim into an independent claim, because Applicant believes that the Tsumiyama et al patent fails to anticipate this claim as originally filed. In particular, original dependent claim 15 recited that

*said second lever portion extends substantially downwardly and rearwardly relative to said first lever portion* when said bicycle control device is coupled to the bicycle and the bicycle is in a normal riding position (Emphasis Added).

In the Office Action, the first and second lever portions were indicated as reading on the *opposite surfaces* of the lever 150 of the Tsumiyama et al patent, which are generally parallel surfaces. Applicant respectfully submits that the second lever portion does *not extend substantially downwardly and rearwardly from the first lever portion* as claimed. However, to make claim 15 more clear, the word “extending” has been changed to “protruding” in amended claim. Thus, claim 15 is not anticipated by the Tsumiyama et al patent *as now amended*.

Moreover, Applicant believes that dependent claims 2, 3, 5, 6, 8-9, 11-13 and 16-19 are also allowable over the prior art of record in that they depend from one of the independent claims, as discussed above, and therefore are allowable for the reasons stated above. Also, dependent claims 2, 3, 5, 6, 8-9, 11-13 and 16-19 are further allowable because they include additional limitations. Thus, Applicant believes that since the prior art of record does not anticipate independent claims 1, 7, 10, 14 and 15, neither does the prior art anticipate their dependent claims.

Applicant respectfully requests the withdrawal of this rejection against pending claims 1-3 and 5-19.

Appl. No. 10/720,267  
Amendment dated February 20, 2007  
Reply to Office Action of October 05, 2006

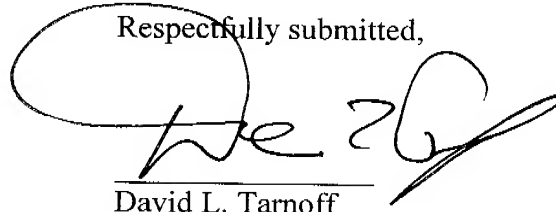
***Prior Art Citation***

In the Office Action, additional prior art references were made of record. Applicant believes that these references do not render the claimed invention unpatentable.

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In view of the foregoing amendment and comments, Applicant respectfully asserts that claims 1-19 are now in condition for allowance. Reexamination and reconsideration of the pending claims are respectfully requested. Of course, if the Examiner wishes to discuss this application, please feel free to call the undersigned.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "He 26", is written over a horizontal line.

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